

MINUTES OF THE
ASSESSING STANDARDS BOARD

Approved as Amended

DATE: January 23, 2015

TIME: 9:30 a.m.

LOCATION: Department of Revenue Administration – Training Room, 109 Pleasant Street, Concord NH

BOARD MEMBERS:

Senator David Pierce – *Absent*
Representative Priscilla Lockwood – *Absent*
Len Gerzon, Public Member, Chairman
Robert J. Gagne, NHA AO, City, Vice Chairman
Joseph Lessard, NHA AO, Towns >3,000
Todd Haywood, NHA AO, Towns <3,000
Betsey Patten, Public Member
Vacant, Municipal Official, Towns >3,000

Senator Bette Lasky – *Absent*
Representative Peter Schmidt
Stephan Hamilton, NHDRA
Eric Stohl, Municipal Official, Towns <3,000
Marti Noel, NHA AO
Thomas Thomson, Public Member
Vacant, Municipal Official, City

MEMBERS OF THE PUBLIC:

Cate De Vasto, NHDRA
Scott Bartlett, Goffstown
Norm Bernaiche, New London, Tri-Town Assessing
John Hayes, Alfano Law Office, PLLC
Linda Kennedy, NHDRA
Jim Michaud, Hudson
Mary Pinkham-Langer, NHDRA

Cindy Brown, BTLA
David Gomez, Derry
William Ingalls, Bedford
Rosann Lentz, Portsmouth
Loren Martin, Avitar
Lois Stohl

Chairman Len Gerzon convened the meeting at 9:32 a.m. Introductions of all Board members and members of the public followed.

Nomination and Election of Chairman and Vice Chairman

Chairman Gerzon indicated that he wished to address the elections as the first item of business and called for nominations:

- Mr. Stohl **nominated** Len Gerzon for Chairman, Mr. Lessard **seconded**
- Ms. Noel **nominated** Robert J. Gagne for Chairman, Mr. Thomson **seconded**

Nominations were discussed and a vote was held. Mr. Gerzon **was elected by a vote of 6 to 3**. Nominations for Vice Chairman:

- Mr. Lessard **nominated Robert Gagne for Vice Chairman**. Ms. Noel **seconded**
- Selectmen Stohl **motioned** nominations cease. Ms. Noel **seconded**. No further discussion.

Mr. Thomson noted that he failed to vote for the Chairman, and that the **vote should be amended to a 6 to 3** vote. A vote for Vice Chair was held. Mr. Gagne was **elected unanimously**. Chairman Gerzon thanked the Board for his election and noted for the record that he agreed that change was good and that he did not intend to be Chair forever, but was glad that he was elected for this year. He indicated that he continued to work on behalf of the taxpayer, but also wished to disclose for the record that he worked for himself now.

Approval of Minutes

Mr. Gagne **motioned to accept the minutes of the September 19, 2014 regular board meeting.** Ms. Patten **seconded the motion.** No discussion ensued. Chairman Gerzon called the motion to accept the minutes of the September 19, 2014 regular board meeting. **The minutes were accepted by a vote of 7 to 0 with 2 abstentions.** Chairman Gerzon and Mr. Haywood abstained, since they were not present at the meeting in question.

The Honorable Peter Schmidt was introduced at this time. He indicated that he was working with the leadership of the House and Senate to ascertain the names of this year's nominees to the ASB. He acknowledged the importance of the House and Senate representation to ensure quorum and communication. Rep. Schmidt noted that every effort was being made to expeditiously fill these positions. When asked, Mr. Hamilton indicated that the DRA also had contacted the leadership. With respect and deference to his position, Rep. Schmidt was invited to sit with the Board in a non-voting status, pending confirmation of his board position.

Review of November 12, 2014 Public Forum Comments

Mr. Stohl noted that the agenda was silent on the acceptance of the minutes of the November 12, 2014 Public Forum Comments. Chairman Gerzon noted that before a motion is tendered for the acceptance of the minutes of the November 12, 2014 Public Forum, held at the NHMA conference, he would like to read the public comments portion into the record and allow the board the opportunity to publicly discuss and review the same.

1. "The board should prioritize the effort towards enacting legislation to require income and expense information from commercial and industrial property owners. This would allow assessors to do a better job in general and with appraising special purpose properties."
 - a. *Comments:* Ms. Patten noted that this issue had been raised unsuccessfully multiple times. It should be discussed with the Speaker to find a potential solution that would be workable with the legislators. Mr. Stohl noted that there was a concern on behalf of business owners whether local assessors would keep this financial information confidential from competitors. Mr. Hamilton indicated that local assessors already do a great job keeping a variety of financial information confidential, such as the information gathered for means-tested exemptions. Under current staffing and budget limitations, there would not be any opportunity for the department to develop the means to manage this data on a state-wide basis. Mr. Jim Michaud noted that this item was still supported by NHMA. Ms. Noel mentioned that it was important that the ASB educate everyone on exactly what information is required. From the audience, Ms. Lentz of Portsmouth indicated that there is a definite misconception that they are looking for the business' income versus the rental income. Without accurate information, there is the potential to adversely affect the proportionality of residential assessments. Maybe replacing the word "income" with "rental" on the form would help. Mr. Stohl indicated that this was new information that should be shared with the legislators. Ms. Patten recommended a white paper from the NHAEO or the NHMA to better explain that rental income is the required information. Chairman Gerzon noted that income and expense legislation was listed as ASB Task Item 5(a) for 2015, which would impact 2016 legislation. Rep. Schmidt indicated that more education was needed and recommended a study committee. From the audience, Mr. Norm Bernaiche mentioned that income approach to value is frequently utilized. The form PA-20 requires quite a bit more information. Should this approach be upheld in court for utility property valuations and if Standards 1 and 2 are to be the top priority, will we be looking at appraising other commercial property utilizing the income approach in the future? Mr. Hamilton noted that the income approach is utilized under Standards 6 mass appraisal for utility property. The same way that valuations for residential properties are performed, utilizing features that can be observed. The things drive the value of residential property are not as easily observed without the information of the amount of rental income. The income approach is a valid technique. Income and Expense refers to the income and expense on a rental property. From the audience, Mr. Scott Bartlett noted the frustration of increasing the Standards to include 1 and 2, without the necessary tools to get the job done. He can't get into many of the homes to view the premises. Also from the audience, Mr. William Ingalls noted that a quick mnemonic would be that "the

IRS wants to know what McDonald's earns, and the assessor wants to know what McDonalds pays to rent their building." Mr. Jim Michaud noted that one of their action policies on Real Estate Income and Expense Statements on Appeal, shows that NHMA supports legislation that prohibits the use of real estate income and real estate expense information by a taxpayer in any appeal of value if the taxpayer, after request by the municipality, has not submitted the requested information. Chairman Gerzon noted that in his experience as an assessor, it was the cost approach, not the income approach that typically sets the higher value. Typically, businesses will bring their income information to an abatement hearing as proof of lower value. It seems that business only want to use that information on their own terms. Ms. Lentz disagreed and indicated that she was modeling information utilizing all three approaches. Mr. Gagne indicated that with missing values, you could not be sure either way, however, his guess would be that with more information, he would find that his commercial tax base would be higher. Since, sometimes information is received tangentially, and it can be surprising. Ms. Noel noted that not receiving this information can be costly to the taxpayers because of the increased incidence of appeals. Mr. Haywood posited that without any legislative support, there is little compliance. Chairman Gerzon noted that he felt the information was provided in so many different ways that it was of little use, even when received. Rep. Schmidt, recommended an ASB study committee to establish whether or not an inequity exists. Mr. Hamilton indicated that it was important to acknowledge all of the items considered and encouraged at the next meeting to look at prioritizing. He also noted that it was part of the art and expertise of the assessor wherein they look at all the available information to create a correct mirror of market activity. Mr. Scott Bartlett, Goffstown, indicated that he felt the system works well as it now stands. The taxpayers have the appeals process. However, if the ASB wants more accountability standards from the assessors, then there needs to be more accountability from the taxpayers to provide information. Mr. Ingalls indicated that assessors are smart enough to know that if the information is not filled out correctly, they then contact the taxpayer. He also asked which assessors present do not rely on the income approach. He echoed that additional education was necessary. Ms. Lentz indicated that this was a very important issue. Mr. Gagne clarified for Mr. Thomson that it was the rental information that was needed. And, all of that information is pooled to model the market rate for the property value. It has nothing to do with what the business sells. Also, market vacancy rates are also pooled and applied to all properties. Chairman Gerzon noted that this issue should be discussed further at another meeting.

2. "Look into repealing the statute that no longer requires owners to allow assessors in or on the property and removal of losing their right to appeal. More and more property owners are not allowing access since the risk of losing their right to appeal was removed. Lack of transparency on the taxpayer side; more regulations on the assessing side."
 - a. *Comments:* Mr. Gagne noted that he thought the intent of the comment was to *remove* the repeal, since it was repealed in 2011. However, he felt it should be left alone. Mr. Haywood felt that it extended the process. Ms. Lentz noted that she did not have any issues, but could see that some towns might. Ms. Cindy Brown, BTLA, commented that a town had filed a motion with the board to compel and inspection and it was denied. Mr. Hamilton stated that there was an inspection warrant process and agreed that there was no problem with the process as it stands. Mr. Bartlett noted that he did not use the administrative warrant. Mr. Michaud noted that both the DRA and the BTLA will require an inspection, if necessary. Any tool that allows a viewing of the property is of help. Mr. Hamilton noted that he raised the issue of the warrant, not as a recommendation, however, because it was one of the reasons the legislature, at the time, noted as to why the statute could be repealed.
3. "Concern was expressed about increasing responsibilities and regulations and what monetary affect those would have on the communities."
 - a. *Comments:* Mr. Gagne indicated that it was self-explanatory. Mr. Michaud stated that the cost of assessing has risen greatly. Maybe the return is great, and it is important to note there is a cost to these decisions. Mr. Hamilton noted that while it may be more costly, it also may be an indication that communities are focusing more on this assessing to ensure that this important function is being handled in a constitutionally appropriate manner.

4. "USPAP Complaint Standards 1 and 2 Reports:"

- a. "A suggestion was made to require this type of report for a special purpose property whose value equals a certain percentage of a community's total value rather than imposing this requirement on all special purpose appraisals."
 - i. *Comments:* Mr. Bernaiche requested that there be a threshold, possibly a percentage of total assessed value. Those properties with a value under this threshold that would not require this added cost of a special assessor. Mr. Gagne noted that this comment seems to indicate that there is now a requirement to do this type of appraisal. Mr. Hamilton indicated that there was no requirement at this time. There is a requirement that whatever type of appraisal takes place, it would be reported under Standards 6.
- b. "Individual towns lack the expertise required to appraise special purpose properties and it is and would be a significant cost to communities to have to do so."
 - i. *Comments:* Mr. Gagne indicated that at this time there is no requirement to employ Standards 1 and 2 reports. Ms. Lentz asked that if a special purpose property was included in CAMA and was found not to have the correct information, would DRA require a report? Mr. Hamilton stated that the department did not require appraisals. There might be an instance where more market support information is requested. The request would go first to the contractor. If the report still does not comply, then that information, with specifics, would then go to the community. When questioned, Mr. Hamilton further indicated there are only two properties in New Hampshire, of which he was aware, that would defy CAMA technique. Notwithstanding, there are instances when a community decides that they want an appraisal of a specific type of property that they may suspect will be challenged. Ms. Lauren Martin, Avitar, noted that she thought the ASB was looking at requiring USPAP 1 and 2. Mr. Hamilton answered that the board has NOT been looking to impose the use of USPAP 1 and 2. The board has been considering whether they should review the appraisals completed under USPAP 1 and 2, when requested by the municipality. Mr. Haywood indicated his belief that the DRA's right to review the assessing contract would extend to the product produced as a result of that agreement. Mr. Hamilton respectfully indicated that the law just needed to be clarified to grant that authority. Ms. Lentz indicated that she would like a timely review of these reports. Mr. Hamilton explained that number of these reports did not indicate a large backlog. Also, it was too early to discuss the details of the adoption of these reviews. Ms. Patten questioned the format of the reports that would be generated. Mr. Hamilton indicated that they would be similar to the present Standard 6, which is more of a checklist. Mr. Michaud noticed that previously Mr. Hamilton indicated that there was not enough staff to handle the statewide rentals and expense information collection. How will the DRA handle the Standards 1 and 2 reports? Mr. Hamilton indicated that it was a matter of scale. These reports would have a smaller impact. Ms. Lentz felt that procedures should be in place before passing the law. Mr. Hamilton indicated that including the standards would be the first step through the door because the Department cannot review anything they are not authorized to review. Chairman Gerzon supported this statement noting that this process is in place at the request of the ASB so they can determine priorities. Additionally, these meetings are being held to include assessors in the process. Mr. Gagne indicated that the present problem was that the DRA cannot review Standards 1 and 2. Ms. Noel noted that the 1 and 2 reviews are only to review processes, not the value. Mr. Hamilton noted the adoption of Standard 6 was intended to improve transparency. And, adding these reports will add to that end. Ms. Martin said that when and if these types of reports are submitted to DRA, with this change, they then would have the authority to review and respond to these submissions, which would alleviate all of our concerns that it was not the ASB attempting to institute all of USPAP. Chairman Gerzon asked that if they made it clear on the submission to the legislature whether or not would that be acceptable. Mr. Michaud questioned why the utility valuations from DRA were not able to be reviewed by the assessors. Mr. Hamilton encouraged everyone to review the past meeting minutes.

- c. "Is the Department prepared and have the staff to do a Standard 3 review and, possibly, a Standard 1 and 2 appraisal?"
 - i. *Comments:* Chairman Gerzon indicated that Mr. Hamilton has indicated that the DRA has the trained staff to complete the review and produce a Standard 3 review. Ms. Lentz indicated that she viewed this commitment favorably. She proposed keeping the wording "Standard 6" with the small addition of the review. Mr. Gagne read from page 2 of the minutes from the September 19, 2014 regular board meeting, wherein the words "Standard 6" are struck from RSA 21-j:14-b,I,(c). If "Standard 6" was left in and added "for a mass appraisal report or Standard 3 for an appraisal report created under Standards 1 and 2" that would solve the issue. Chairman Gerzon indicated that they were getting a workable solution, although he had not expected to get this far today. Ms. Lentz did not have any issues with the wording proposed by Mr. Gagne. It was generally agreed that the removal of "Standard 6" was not desirable. Mr. Bartlett indicated that he did not believe that the law should be changed. Ms. Patten stressed that this issue was being undertaken in order to increase transparency and to protect the taxpayers and the towns from non-compliant reports. Mr. Haywood reiterated that he thought the DRA already had authority to review because of their duty to enforce the contracts. Mr. Gagne asked for clarification of Mr. Bartlett's concern. Mr. Bartlett indicated that he did not think more government was the answer. Ms. Lentz indicated that, in the end, they can "take or leave" the DRA's comments.
- d. "If a Standard 1 and 2 report is completed, a Standard 3 report is required."
 - i. *Comments:* At 11:30 a.m. Chairman Gerzon convened for a ten minute break. The meeting reconvened at 11:40 a.m. Chairman Gerzon read the remainder of the public comments into the record:
- 5. "Removing Standard 6 reference in statute to encompass all of USPAP: The suggestion was made to review the certification requirements to see if they encompass the additional work experience and education necessary to accommodate USPAP Standards 1 and 2. The certification rules include the work experience and education requirements for mass appraisal."
- 6. "The ASB was asked to look into and determine whether or not the department would be able to answer questions about a Standard 3 appraisal in a litigious environment."
 - a. "Mr. Hamilton indicated that the department does comply with Standards 1 and 2 with utility appraisals and there was a recent Supreme Court case which changed the field of play when it comes to when is it appropriate for the department to disclose that appraisal and is the appraiser available to testify and to be deposed?"
 - b. "The Supreme Court Case: Coos County Commissioner's on behalf of the communities of Millsfield and Dixville appealing a decision of the NH BTLA and the total equalized value for 2012."
- 7. "Mr. Riel from the City of Portsmouth suggested that developing a set of predetermined shared scope of work from communities and DRA to allow for a set of expectations ahead of time and to define what DRA needs... would give assessors a voice in the process."
- 8. "USPAP Standards 1 and 2. There is a conflicting interpretation of whether or not the DRA already has the authority by statute to review these reports."
- 9. "It was reiterated that the board be mindful that any new regulation will cost money and to be mindful of the budgetary and political issues."

Acceptance of Public Comments

Mr. Gagne **motioned to accept the Public Comments from November 12, 2014 as prepared**, and to review them. Mr. Lessard **seconded** the motion. The motion **passed** unanimously.

Approval of Minutes

Ms. Patten **motioned to accept the minutes of the ASB Public Forum, held November 12, 2014**, as prepared. Mr. Lessard **seconded** the motion. The motion **passed** unanimously.

Next Meeting

The next meeting is February 27, 2015 at 9:30 a.m.

2013 Assessment Review Results

Mr. Hamilton handed out the five-year 2013 Assessment Review results. The adoption standards of 2013 are also included. The overwhelming majority met nearly all the requirements in the individual results. This report entails the "once in every five years" review. Additionally, the DRA monitors re-valuations and integrates that information into this report through the performance statistics. For some communities that do not meet expectations, there is the possibility that DRA staff can go back and review. More detailed information on the review is available. Overall, the results match the predictable patterns seen in the past. For inspection of properties, the data standard is on track. This information was tabled for discussion at the next meeting. Mr. David Cornell, NH-DRA, will answer any questions at that time.

Annual Report for 2014

The report had been sent for review this morning and should be sent out with the next meeting's agenda.

Rev 600 Rules

Tabled until next meeting.

Other Business

As an agenda item, the reorganization of the ASB Task Item list, should be added.

Adjournment

A **motion to adjourn** was made by Mr. Gagne and **seconded** by Mr. Haywood. The motion **passed** unanimously.

The meet adjourned at 11:58 a.m.

Respectfully submitted by:

Cate De Vasto